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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
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10 JASON MARTIN,

11 Petitioner,

12 v.

13 RON BARNES, Warden,

14
15 Respondent.
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) Case No. LA CV 12-09503-VBF-JC
)

) ORDER Overruling Petitioner's
) Objections & Supplemental Objections,
) Adopting the R&R, Denying the Habeas
) Corpus Petition, and Terminating this
) Action
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17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus
18 by a Person in State Custody ("the petition") and accompanying memorandum (CM/ECF Document
19 ("Doc") 1), the respondent's answer and answer memorandum (Doc 11), the lodged documents (Doc
20 12), the Report and Recommendation of the United States Magistrate Judge ("R&R") (Doc 19),
21 petitioner's objections and supplemental objections to the R&R (Docs 22 and 24), and the applicable
22 law. The Court has made a *de novo* determination of those portions of the R&R to which petitioner
23 has specifically objected.

24 This Court, in its discretion, has declined to consider new evidence and arguments which
25 petitioner seeks to present for the first time in his objections. *See Brown v. Roe*, 279 F.3d 742, 745
26 (9th Cir. 2002); *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000).

27 Indeed, "new arguments and factual assertions . . . raised for the first time in objections to
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the report and recommendation . . . may not be deemed objections at all.” *Syed v. M-I, LLC*, 2014 WL 6685966, *7 (E.D. Cal. Nov. 26, 2014) (Ishii, Sr. J.) (quoting *Razzoli v. FBOP*, 2014 WL 2440771, *13 (S.D.N.Y. May 30, 2014) (Preska, C.J.), *appeal filed*, No. 14-2033 (2d Cir. June 12, 2014)). The only proper purpose of an objection to an R&R is to identify a specific defect of law, fact, or logic in the Magistrate Judge’s analysis. “In [*Thomas v. Arn*, [474 U.S. 140, 106 S. Ct. 466 (1985)], the [Supreme] Court also had this understanding of the purposes of the Magistrates Act, and similarly assumed that objections were to address specific concerns *with the magistrate’s report*.” *Howard v. Sec’y of HHS*, 932 F.2d 505, 509 (6th Cir. 1991) (emphasis added); *see also Snipes v. Tilton*, 2011 WL 766599, *3 (S.D. Cal. Feb. 25, 2011) (Larry Alan Burns, J.) (“An objection to the R&R would identify something wrong with the R&R, either something in the R&R that should be different, or something omitted from the R&R that should have been included.”). An R&R cannot have analyzed an argument or evidence which the objecting party failed to present prior to its issuance, so a Report’s “failure” to address such arguments or evidence cannot be a defect.

Petitioner’s objection filed May 6, 2015 **[Doc #22] is OVERRULED.**

Petitioner’s supplemental objection **[Doc # 24] is OVERRULED.**

The petition for a writ of habeas corpus **[Doc #1] is DENIED.**

This action is dismissed with prejudice and **TERMINATED.**

The Court will rule on a certificate of appealability by separate document.

As required by Fed. R. Civ. 58(a), final judgment will be entered by separate document.

DATED: June 5, 2015



Honorable Valerie Baker Fairbank
Senior United States District Judge